

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

MILTON VERAN WILLIAMS,)
)
Plaintiff,)
)
-vs-) Case No. CIV-01-1918-C
)
THE CITY OF GUTHRIE, et al.,)
)
Defendants.)

ORDER ADOPTING REPORT AND RECOMMENDATION

This matter is before the Court on the Report and Recommendation entered by the United States Magistrate Judge on October 28, 2005. Plaintiff filed a timely objection and this matter will therefore be considered de novo.

In her thorough and well-reasoned Report and Recommendation (R&R), Judge Couch suggested that Defendant Tucker's Motion to Dismiss be denied and that his Motion for Summary Judgment be granted. Judge Couch also proposed that Defendant Fulton be granted judgment on Plaintiff's claims for excessive force during the arrest and deliberate indifference to medical needs, but that Plaintiff's claims survive against Defendant Fulton for warrantless arrest and excessive force from the alleged choking incident when Plaintiff was a pre-trial detainee.

In his objection, Plaintiff challenges Judge Couch's recommendation arguing the facts support his claims against Defendants. After de novo review, the Court is persuaded Judge Couch's recommendations should be adopted.

Accordingly, the Report and Recommendation of the Magistrate Judge is adopted and the Court rules as follows: Defendant Tucker's Motion to Dismiss (Dkt. No. 237) is **DENIED**, and his Motion for Summary Judgment (Dkt. No. 212) is **GRANTED**. Defendant Fulton's Motion for Summary Judgment is **GRANTED** as to Plaintiff's claim of excessive force during the arrest and Plaintiff's claim of deliberate indifference to medical needs, but the motion is **DENIED** with respect to Plaintiff's Fourth Amendment claim regarding the in-home warrantless arrest and Plaintiff's excessive force claim arising from the alleged choking incident while Plaintiff was a pre-trial detainee. Plaintiff's Motion to Appoint Counsel is **GRANTED**, and counsel will be named by separate order.

IT IS SO ORDERED this 15th day of December, 2005.



ROBIN J. CAUTHRON
United States District Judge